

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

JAMES G.,

Claimant,

OAH No. 2009090746

vs.

REDWOOD COAST REGIONAL CENTER,

Service Agency.

DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter on November 17, 2009, by telephone.

Claimant was represented by his mother.

Nancy Ryan, Attorney at Law, represented service agency Redwood Coast Regional Center.

The record was closed and matter was submitted for decision on November 17, 2009.

ISSUE

Did Redwood Coast Regional Center err in reducing funding for travel for claimant and his mother from Oregon based on recent amendments to Welfare and Institutions Code section 4648.5?

FACTUAL FINDINGS

1. Claimant is a 29-year-old consumer of Redwood Coast Regional Center who lives independently through supported living services 24/7 from Radiant Living. Claimant is eligible for regional center services based upon diagnoses of profound intellectual disability and epilepsy. Claimant needs help in all areas of self-care as well as supervision to ensure his safety.

2. Redwood Coast Regional Center provides claimant, among other things, with monthly mileage expense for claimant's mother, round trip from O'Brien, Oregon.

3. Claimant's most current IPP includes "... continue to have regular contact and visits with my family"; and "Jim to continue to see his mother on monthly basis as travel allows"; and "RCRC to continue to POS to reimburse Jim's mother, Stephanie, for transportation costs." The Regional Center is currently funding reimbursement for travel expenses up to 323 miles per month at the rate of \$0.32 per mile. This totals \$103.36 per month.

4. Claimant loves his mother. They are close and he values his mother's visits. Her monthly visits to see claimant add stability to his life; her monthly visits are very meaningful to claimant and add a true family component to his life; and reimbursement for travel expenses makes her visits possible.

5. Redwood Coast Regional Center considered whether it could grant claimant an exemption for continued funding monthly visits. It concluded that they could fund visits once a quarter.

6. Redwood Coast Regional Center issued to claimant a Notice of Proposed Action on August 21, 2009, which reduced funding for transportation reimbursement from monthly to quarterly. Claimant timely filed a fair hearing request dated September 1, 2009. Claimant was thus entitled to receive aid paid pending the appeal. (Welf. & Inst. Code, § 4715.)

7. Claimant continues to receive other support services. Reduction of funding transportation for visitation from monthly to quarterly is reasonable.

8. The Director of the Department of Developmental Services has not implemented the Individual Choice Budget.

LEGAL CONCLUSIONS

1. The State of California accepts responsibility for persons with developmental disabilities under the Lanterman Developmental Disabilities Services Act. (Welf. & Inst. Code, § 4500 et seq.) The Lanterman Act mandates that an "array of services and supports should be established . . . to meet the needs and choices of each person with developmental disabilities . . . and to support their integration into the mainstream life of the community." (Welf. & Inst. Code, § 4501.) Regional centers are charged with the responsibility of carrying out the state's responsibilities to the developmentally disabled under the Lanterman Act. (Welf. & Inst. Code, § 4620, subd. (a).) The Lanterman Act directs regional centers to develop and implement an Individual Program Plan (IPP) for each individual who is eligible for regional center services. (Welf. & Inst. Code, § 4646.) The IPP states the consumer's

goals and objectives and delineates the services and supports needed by the consumer. (Welf. & Inst. Code, §§ 4646, 4646.5, & 4648.)

2. The Legislature has made significant changes to the provision of services under the Lanterman Act through the Budget Act of 2009. Welfare and Institutions Code section 4648.35, added to the Lanterman Act, provides in part:

(b) A regional center shall fund the least expensive transportation modality that meets the consumer's needs, as set forth in the consumer's IPP

Welfare and Institutions Code section 4648.35 and the intent of AB 9 thus require Redwood Coast Regional Center to reduce claimant's transportation services from monthly to quarterly pending the implementation of the Individual Choice Budget. RCRC has granted an exemption and will fund claimant's mother's transportation reimbursement at the rate of \$0.32 per mile up to a maximum of 323 miles per quarter as the least expensive available option.

3. Redwood Coast Regional Center has determined that claimant does meet the criteria for a partial exemption and has granted claimant a partial exemption. It is therefore concluded that Redwood Coast Regional Center has properly reduced the provision of transportation services to claimant pursuant to the requirements of Welfare and Institutions Code section 4648.35.

ORDER

The appeal of James G. seeking continued funding of monthly transportation services is denied.

DATED: 11/30/09

/s/

RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision in this matter. Judicial review of this decision may be sought in a court of competent jurisdiction within ninety (90) days.